

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

FILED

02 MAY 29 AM 8:48

U.S. DISTRICT COURT
N.D. OF ALABAMA

LEONARD SMITH,

Petitioner,

vs.

JOE W. WHISANTE,

Respondent.

CIVIL ACTION NO. 01-BE-2970-NE

ENTERED *pc*

MAY 29 2002

MEMORANDUM OF OPINION

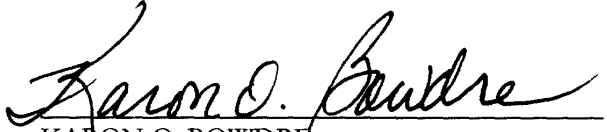
Leonard Smith, who is represented by counsel, presents this court with a habeas corpus petition pursuant to 28 U.S.C. §§ 2241 and 2254. After the respondent filed his answer to the petition, the magistrate judge filed a report and recommendation on February 7, 2002, recommending that the petition be denied. On February 21, 2002, the petitioner filed a motion to reconsider the report and recommendation. On April 8, 2002, the magistrate judge responded to the motion with further discussion, and denied the motion to reconsider. On April 23, 2002, the petitioner filed objections to the report and recommendation and the order denying reconsideration. Attached to the objections is a motion for a hearing and oral argument. The respondent was given until May 17, 2002 to file a response. He has not responded.

The court has considered the entire court file and has reached an independent conclusion that the magistrate judge's report and recommendation, as well as the discussion set out in the order denying reconsideration, are due to be adopted and approved. The court agrees that the initial failure to set bond, whether proper or improper, is not relevant to the question of whether

the million-dollar bail ultimately set in the state cases violates the United States constitution. The court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusions of the court. A hearing and oral argument are unnecessary.

Wherefore, the motion for oral argument is due to be denied, and this petition for writ of habeas corpus is due to be denied on the merits. An appropriate order will be entered.

DONE this 29th day of May, 2002.


KARON O. BOWDRE
UNITED STATES DISTRICT JUDGE